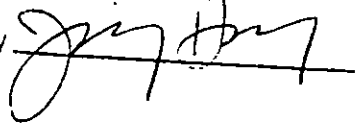


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FILED
AUG 23 2000
DEPARTMENT OF REAL ESTATE
By 

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) NO. H-25332 LA
RAINBOW PROPERTIES, INC.)
Respondent.)
_____)

ORDER DENYING REINSTATEMENT OF LICENSE

On July 19, 1994, a Decision After Rejection was rendered adopting the Order in the Proposed Decision of February 18, 1994, revoking the corporate real estate broker license of RAINBOW PROPERTIES, INC. (Respondent), effective August 10, 1994. Respondent was given the right to apply for and receive a restricted real estate broker license which was issued to it on August 10, 1994.

On November 8, 1996, Respondent petitioned for reinstatement of said real estate broker license. This petition was withdrawn on August 25, 1997, and a second petition for reinstatement was filed on May 27, 1998. In both petitions the Attorney General of the State of

1 California was given notice of the filing of said petitions.

2 I have considered the petition of Respondent and
3 the evidence submitted in support thereof. Respondent has
4 failed to demonstrate to my satisfaction that it has
5 undergone sufficient rehabilitation to warrant the
6 reinstatement of its corporate real estate broker license at
7 this time. This determination has been made in light of
8 Respondent's history of acts and conduct which are
9 substantially related to the qualifications, functions and
10 duties of a real estate licensee. That history includes:

11 I

12 In the Decision After Rejection dated July 19,
13 1994, Findings were made that cause existed to discipline
14 the license of Respondent for its failure to "properly
15 maintain trust accounts, under the provisions of Business
16 and Professions Code Section 10145(a), 10177(d), and
17 10177(g) by reason of Findings No. 6 and No. 7".

18 II

19 The Findings set forth, above, in Paragraph I, are
20 as follows:

21 "6. Mr. Revilla (the Department auditor) testified
22 that respondents maintained a trust account shortage of
23 \$127,591.25 as of July 31, 1992.

24 7. As of October 31, 1993, Judy Jones, Certified
25 Public Accountant, was of the opinion that respondents
26 maintained trust account shortages of \$21,115.16, and the
27 shortage resulted from a bank wire transfer inadvertently
credited to the wrong account by the bank. This shortage



1 caused respondents to utilize the funds of other escrow
2 depositors to close the real estate transaction of Escrow
3 79-0280."

4 III

5 At the time of the aforesaid Findings and
6 violation of Real Estate Law Vincent Cervantes was the
7 designated broker for Respondent Rainbow. In the Decision
8 After Rejection set forth above a further Finding was made
9 that Cervantes lacked familiarity with accounting principles
10 and with the proper administration of trust accounts and
11 that he demonstrated dereliction of his statutory duty of
12 proper supervision. Cervantes is still the designated
13 broker for Rainbow.

14 IV

15 Due to the very serious nature of the violation
16 which led to the revocation of Respondent's license not
17 enough time has passed to establish that Respondent is fully
18 rehabilitated. This is cause to deny its petition pursuant
19 to Title 10, Chapter 6, California Code of Regulations
20 (Regulations).

21 V

22 Respondent has failed to demonstrate that it has
23 corrected the business practices which led to the revocation
24 of its license. This is cause to deny its petition pursuant
25 to Section 2911(j) of the Regulations.

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NOW, THEREFORE, IT IS ORDERED that Respondent's
petition for reinstatement of its corporate real estate
broker's license is denied.

This Order shall become effective at 12
o'clock noon on September 12, 2000.

DATED: August 15, 2000

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddish Zinnemann

By Laura B. Orona

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) NO. H-25332 LA
RAINBOW PROPERTIES, INC.,) L-59895
and VINCENT CERVANTES,)
Respondents.)

DECISION AFTER REJECTION

The above-entitled matter came on for hearing before Jaime Rene Roman, Administrative Law Judge of the Office of Administrative Hearings at Los Angeles, California, on February 2, 1994.

Complainant was represented by James R. Peel, Counsel. Respondents were present and represented by Mark Nialis, Esq. Evidence was received and the matter stood submitted on February 4, 1994.

On February 18, 1994, the Administrative Law Judge submitted a Proposed Decision which I declined to adopt as the Decision of the Real Estate Commissioner. Pursuant to Section 11517(c) of the Government Code of the State of California,

1 respondents were served with a copy of the Proposed Decision
2 dated February 18, 1994, and with Notice that the case would be
3 decided by me upon the record including the transcript of
4 proceedings held on February 4, 1994, and upon any written
5 argument offered by respondent.

6 Argument has not been submitted on behalf of
7 respondents.

8 I have given careful consideration to the record in
9 this case including the transcript of the proceedings of
10 February 4, 1994. The following shall constitute the Decision
11 of the Real Estate Commissioner in this matter.

12 FINDINGS OF FACT

- 13 1. Steven J. Ellis made and filed the Accusation in
14 his official capacity as a Deputy Real Estate Commissioner
- 15 2. From March 14, 1990, Respondent Rainbow Properties,
16 Inc. ("Rainbow") and Respondent Vincent Cervantes, a Designated
17 Officer of Respondent Rainbow Properties, Inc., were licensed
18 and/or had licensing rights under the Real Estate Law as
19 follows:
- 20 A. Rainbow, as of March 14, 1990, was licensed by the
21 Department of Real Estate as a corporate real estate broker.
- 22 B. Respondent Vincent Cervantes, as of March 14,
23 1990, was licensed by the Department of Real Estate as the
24 Designated Officer of Rainbow, and is licensed as a real estate
25 broker.

26 /
27 /

1 3. From March 14, 1990, Rainbow acted as a real
2 estate broker in the State of California within the meaning of
3 Section 10131(a) of the Business and Professions Code.

4 4. Ron Revilla, an Auditor on behalf of the
5 Department, conducted an examination of Rainbow's trust account
6 records to determine whether funds were maintained in accordance
7 with the Real Estate Law and the Commissioner's Regulations. An
8 examination was performed by Mr. Revilla from August 4, 1992 to
9 August 24, 1992, for the period of November 1, 1991 to July 31,
10 1992 (hereinafter referred to as "the audit period").

11 5. Rainbow maintained two escrow trust accounts as of
12 July 31, 1992, as follows:

13 (1) Rainbow Properties, Inc.

14 Escrow Division Trust Account

15 Guardian Bank

16 800 South Figueroa Street

17 Los Angeles, California

18 Account No. 001-731041

19 (2) Century 21 aka Rainbow Properties Inc.

20 Escrow Division

21 First Interstate Bank

22 6510 Atlantic Avenue

23 Bell, California

24 Account No. 145-6-58733

25 6. Mr. Revilla testified that respondents maintained
26 a trust account shortage of \$127,591.25 as of July 31, 1992.

27 /

1 7. As of October 31, 1993, Judy Jones, Certified
2 Public Accountant, was of the opinion that respondents
3 maintained trust account shortages of \$21,115.16, and the
4 shortage resulted from a bank wire transfer inadvertently
5 credited to the wrong account by the bank. This shortage caused
6 respondents to utilize the funds of other escrow depositors to
7 close the real estate transaction of Escrow 79-0280.

8 8. There has been no theft of any trust funds
9 entrusted to respondents.

10 9. Respondents prior to this instant accusation were
11 not in the habit of having their books and records audited by
12 qualified personnel.

13 10. Lacking familiarity with accounting principles
14 and with the proper administration of trust accounts, respondent
15 Cervantes improperly delegated his responsibilities per Section
16 10159.2 of the Code to others. Thus, despite the findings of
17 the Administrative Law Judge, he demonstrated dereliction of his
18 statutory duty of proper supervision.

19 DETERMINATION OF ISSUES

20 1. Cause exists to discipline respondent RAINBOW
21 PROPERTIES, INC.'S license for failure to properly maintain
22 trust accounts, under the provisions of Business and Professions
23 Code Sections 10145(a), 10177(d), and 10177(g), by reason of
24 Findings No. 6 and No. 7.

25 2. Cause exists to discipline the real estate
26 licenses and license rights of respondent CERVANTES under
27 Business and Professions Code Section 10177(h) as the

1 responsible individual, by allowing and permitting RAINBOW
2 PROPERTIES, INC., to engage in the conduct specified in Findings
3 No. 6 and No. 7.

4 ORDER

5 1. With reference to RAINBOW PROPERTIES, INC. the
6 Order in the Proposed Decision of February 18, 1994 is hereby
7 adopted in its entirety.

8 2. All licenses and licensing rights of respondent
9 VINCENT CERVANTES under the Real Estate Law are suspended for a
10 period of ninety (90) days from the effective date of this
11 Order, provided as follows:

12 A. All ninety (90) days of said suspension shall be
13 stayed for two (2) years on the condition,

14 (1) That respondent shall obey all laws, rules and
15 regulations governing the rights, duties and
16 responsibilities of a real estate licensee in
17 the State of California.

18 (2) That no final subsequent determination be made
19 by the Real Estate Commissioner after hearing or
20 upon stipulation that cause for disciplinary
21 action against the real estate license of
22 respondent has occurred within (2) years of
23 the effective date of this Order.

24 (3) That if, after two years from the effective
25 date of this Order, each of the conditions
26 referred to in this paragraph "A" are
27 complied with, the ninety (90) day stay

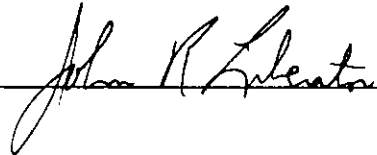
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granted pursuant to this paragraph shall
become permanent.

As hereby modified and amended, the Decision of
February 18, 1994, shall become effective at 12 o'clock noon on
August 10, 1994.

IT IS SO ORDERED July 19, 1994.

JOHN R. LIBERATOR
Interim Commissioner



lbo

See file

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MAR 17 1994

DEPARTMENT OF REAL ESTATE
BY Jana B. Dean

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
RAINBOW PROPERTIES, INC.,)	NO. H-25332 LA
and VINCENT CERVANTES,)	L-59895
Respondents.)	
_____)	

NOTICE

TO: RAINBOW PROPERTIES, INC., and VINCENT CERVANTES, Respondents
and
MARK NIALIS, their Counsel

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated February 18, 1994, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated February 18, 1994, is attached for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on February 4, 1994, and any written argument hereafter submitted on behalf of

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respondents and complainant.

Written argument of respondents to be considered by me must be submitted within 15 days after receipt of the transcript of the proceedings of February 4, 1994, at the Los Angeles office of the Department of Real Estate unless an extension of the time is granted for good cause shown.

Written argument of complainant to be considered by me must be submitted within 15 days after receipt of the argument of respondents at the Los Angeles office of the Department of Real Estate unless an extension of the time is granted for good cause shown.

DATED: 3/12/94

CLARK WALLACE
Real Estate Commissioner



BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of:)

RAINBOW PROPERTIES, INC.)
and VINCENT CERVANTES,)

Respondent.)

Agency No. H-25332 LA

OAH No. L-59895

PROPOSED DECISION

This matter came on regularly for hearing before Jaime René Román, Administrative Law Judge of the Office of Administrative Hearings, in Los Angeles, California, on February 4, 1994.

The Complainant was represented by James Peel, Staff Counsel.

Respondent Rainbow Properties, Inc., appeared by its Vice-President, Respondent Vincent Cervantes. Respondent Vincent Cervantes appeared personally. Respondents were represented by Mark Nialis, Esq.

Oral and documentary evidence was received, and the matter submitted on February 4, 1994.

FINDINGS OF FACT

The Administrative Law Judge finds as follows:

1. Steven J. Ellis made and filed the Accusation in his official capacity as a Deputy Real Estate Commissioner.

2. From March 14, 1990, Respondent Rainbow Properties, Inc. ("Rainbow") and Respondent Vincent Cervantes, a Designated Officer of Respondent Rainbow Properties, Inc., were licensed and/or had licensing rights under the Real Estate Law as follows:

A. Rainbow, as of March 14, 1990, was licensed by the Department of Real Estate as a corporate real estate broker.

B. Respondent Vincent Cervantes, as of March 14, 1990, was licensed by the Department of Real Estate as the Designated Officer of Rainbow, and is licensed as a real estate broker.

3. From March 14, 1990, Rainbow acted as a real estate broker in the State of California within the meaning of Section 10131(a) of the Business and Professions Code.

4. In order to determine compliance with an Order to Desist and Refrain following a prior audit [Case No. H-25066 LA]. Ron Revilla, an Auditor on behalf of the Department, conducted an examination of Rainbow's trust account records to determine whether funds were maintained in accordance with the Real Estate Law and the Commissioner's Regulations. The date and scope of the prior audit or the Desist and Refrain Order ["Order"] have not been provided to the administrative law judge. The Complainant's failure to produce the Order precludes the administrative law judge from making any findings relative to compliance, lack of compliance, or duties arising from such Order.

A. An examination was performed by Mr. Revilla from August 4, 1992 to August 24, 1992, for the period of November 1, 1991 to July 31, 1992 [hereinafter referred to as "the audit period"].

B. Rainbow maintained two escrow trust accounts as of July 31, 1992, as follows:

(1) Rainbow Properties Inc.
Escrow Division Trust Account
Guardian Bank
800 South Figueroa Street
Los Angeles, California
Account No. 001-731041

(2) Century 21 aka Rainbow Properties Inc.
Escrow Division
First Interstate Bank
6510 Atlantic Avenue
Bell, California
Account No. 145-6-58733

5. Respondent Vincent Cervantes, his mother, Zora Cervantes, and Johnell Vega were the signatories on both accounts.

A. Zora Cervantes is the President of Rainbow.

B. Respondent Vincent Cervantes is the Vice President of Rainbow.

C. Johnell Vega, a duly licensed real estate broker, is the Escrow Manager of Rainbow.

(1) Respondent Cervantes, in his capacity as Designated Officer, employed Ms. Vega as a

person qualified to act as Escrow Manager, Escrow Officer and/or Escrow Support Staff Manager on the basis of her education, training, experience and references on June 19, 1990.

(2) From 1972 until her employment with Rainbow, Ms. Vega had a broad range of experience related to handling escrows and bookkeeping.

(3) Respondent Cervantes, in his capacity as Designated Officer, employed Ms. Vega to establish and maintain a separate department for the processing and closing of escrows on Rainbow's transactions, and to establish escrow trust accounting services and maintain appropriate trust accounting records.

6. The audit of Rainbow's records for the audit period established the following deficiencies:

A. Rainbow failed to maintain trust account records for the audit period.

(1) Respondent failed to maintain a proper control account record for each trust account.

(2) Respondent failed to maintain proper separate records for each escrow.

(3) Respondent's records did not reflect proper balances.

B. Rainbow failed to maintain the daily balance on each trust account.

C. Rainbow failed to perform trust account reconciliations on each trust account. Trust account records had not been reconciled for nine months.

D. Rainbow maintained a shortage of \$21,115.16 in the Guardian Bank trust account [Escrow 79-0280].

(1) The shortage of \$21,115.16 resulted from a bank wire transfer inadvertently credited to the wrong account by the bank.

(2) Respondent inadvertently utilized the funds of other escrow depositors to close the real estate transaction of Escrow 79-0280.

(3) There has been no theft of any trust funds entrusted to Respondent.

7. A corporate broker conducts its activities through the intervention of human agency. Johnell Vega failed, during the audit period, on behalf of Rainbow, to properly:

- A. maintain separate records for each escrow,
- B. reconcile the trust accounts,
- C. properly reflect the balance of each deposit and account entrusted to Rainbow.

8. It was not established that Respondent Vincent Cervantes had any prior knowledge of the trust account deficiencies of Ms. Vega, and, upon receipt of the audit report, Respondent Vincent Cervantes retained Escrow Data Services and the services of Judy Jones, CPA, to thoroughly audit, reconstruct, recommend and correct the systemic and technical¹ factors contributing to the trust account recordkeeping and shortage.

A. Respondent Cervantes now acknowledges that Rainbow failed to properly maintain its trust accounts.

(1) The Complainant has produced no evidence establishing a failure by Respondent Cervantes to reasonably supervise and control the activities conducted on behalf of the corporation, Rainbow, by its officers and employees.

(a) A designated officer's supervision and control over the activities of the corporation is measured by "reasonable." (Business & Professions Code Section 10177(h))

(b) It is not established by Complainant that Respondent Cervantes acted unreasonably in his supervision and control.

B. Lacking familiarity with accounting principles or trust office administration, and in the discharge of his responsibility to reasonably supervise and control the trust and escrow activities conducted on behalf of the corporation, Rainbow; Respondent Cervantes, as Designated Officer, employed and reasonably relied on the education, experience, training, and references of Johnell Vega in her responsibilities as Escrow Manager.

¹ During the audit period, October 1991 and November 1991, Respondent Rainbow Properties, Inc.'s computer drive with respect to trust account records "crashed."

(1) Respondent during the audit period met with Ms. Vega 2 to 3 mornings a week in her capacity as Escrow Manager.

(2) Ms. Vega failed to communicate her own failure to maintain Rainbow's recordkeeping or trust account reconciliations during the audit period.

(3) Respondent Cervantes, relying on Ms. Vega, did not review her recordkeeping during the audit period.

C. Respondent Cervantes, in his capacity as Designated Officer, intends to indefinitely retain the services of Escrow Data Services and Judy Jones, CPA, to avoid trust account deficiencies.

9. Complainant alleged that Respondent Cervantes allowed and permitted the conduct of Rainbow as found in Finding No. 6. There is no evidence to support such an allegation; accordingly, it is found that Respondent Cervantes neither allowed nor permitted the deficiencies in Finding No. 6 with respect to Rainbow, or the deficiencies in Finding No. 7 with respect to Johnell Vega.

A. In addition to Complainant's evidentiary failure, Complainant presented no legal authority whereby the administrative law judge could conclude that Respondent Cervantes' culpability might be predicated on either strict liability or the imputation of negligence (i.e., respondeat superior) from Johnell Vega in his capacity as a Designated Officer.

B. Respondent Cervantes established by character evidence his reputation in his community for truth, honesty, community service, professional standing, and personal devotion to Rainbow, a company founded by his parents. He appeared remorseful, acknowledged his reliance on the credentials of Ms. Vega and willingness to discharge Ms. Vega, if required, and has undertaken to remedy the trust deficiencies in Mr. Rivella's audit report (see Finding No. 8).

C. No client of Respondents lost any funds as a result of either the recordkeeping or otherwise improper use of other entrusted funds to close escrow.

* * * * *

DETERMINATION OF ISSUES

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

1. Cause exists to discipline Respondent Rainbow Properties, Inc.'s license for failure to properly maintain trust accounts, under the provisions of Business and Professions Code section 10145(a) by reason of Finding Nos. 6.
2. Cause exists to discipline Respondent Rainbow Properties, Inc.'s license for violating the Real Estate Law by not keeping trust funds separate under the provisions of Business and Professions Code section 10177(d), in conjunction with section 10145(d)(3), by reason of Finding No. 6.
3. Cause exists to discipline Respondent Rainbow Properties, Inc.'s license for negligence under the provisions of Business and Professions Code section 10177(g) by reason of Finding No. 6 and 7.
4. Cause does not exist to discipline Respondent Vincent Cervantes' license for failure to supervise under the provisions of Business and Professions Code section 10177(h) by reason of Finding Nos. 5, 8 and 9.
5. Giving due consideration to the evidence of mitigation and extenuation provided in Finding Nos. 8 and 9, the public interest will not be adversely affected by the issuance to Respondent Rainbow Properties, Inc. of a properly conditioned, restricted license.

* * * * *

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Respondent Rainbow Properties, Inc.

Adapted

All licenses and licensing rights of respondent, Rainbow Properties, Inc., under the Real Estate Law are revoked; provided, however, a restricted real estate broker's license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code, if respondent makes application therefore and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and the

following limitations, conditions and restrictions imposed under authority of section 10156.6 of that code:

Adopted

1. Respondent Rainbow Properties, Inc. shall deposit the sum of \$21,115.16 for Escrow 79-0280 into the appropriate escrow trust account of Respondent Rainbow Properties, Inc. within sixty days of the effective date of the Decision. The Commissioner may suspend the restricted license issued to Respondent Rainbow Properties, Inc. pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if the deposit is not timely made as provided for herein, or as provided for in a subsequent agreement between the Respondent Rainbow Properties, Inc. and the Commissioner. The suspension shall remain in effect until payment is made in full or until Respondent Rainbow Properties, Inc. enters into an agreement satisfactory to the Commissioner to provide for payment, or until a Decision providing otherwise is adopted following a hearing held pursuant to this condition.

2. The restricted license issued to Respondent Rainbow Properties, Inc. may be suspended following a hearing by order of the Real Estate Commissioner in the event of Respondent Rainbow Properties, Inc.'s conviction or plea of nolo contendere to a crime which is substantially related to Respondent Rainbow Properties, Inc.'s fitness or capacity as a real estate licensee.

3. The restricted license issued to respondent may be suspended following a hearing by order of the Real Estate Commissioner on evidence satisfactory to the commissioner that Respondent Rainbow Properties, Inc. has violated provisions of the California Real Estate Law, the Subdivided Lands Law, the Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

4. Respondent Rainbow Properties, Inc. shall not be eligible to apply for the issuance of an unrestricted real estate license, nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.

5. Pursuant to Section 10148 of the Business and Professions Code, Respondent Rainbow Properties, Inc. shall pay the Commissioner's reasonable cost for an audit to determine if Respondent Rainbow Properties, Inc. has corrected the trust fund violations found in paragraphs 1, 2, and 3 of the Determination of Issues. The Commissioner may maintain an action for the recovery of the cost in any court of competent jurisdiction, and, in calculating the amount of the Commissioner's reasonable cost, may use the estimated average hourly cost for all persons performing audits of real estate brokers. Respondent Rainbow Properties, Inc. shall pay such cost within 45 days of receiving an invoice from the Commissioner detailing the activities

performed during the audit and the amount of time spent performing those activities. The Commissioner may suspend the restricted license issued to Respondent Rainbow Properties, Inc. pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the Respondent Rainbow Properties, Inc. and the Commissioner. The suspension shall remain in effect until payment is made in full or until Respondent Rainbow Properties, Inc. enters into an agreement satisfactory to the Commissioner to provide for payment, or until a Decision providing otherwise is adopted following a hearing held pursuant to this condition.

advised

6. Within sixty days of the effective date of this Decision, Respondent Rainbow Properties, Inc. shall submit to the Commissioner for his prior approval the name and address of a Certified Public Accountant who shall conduct periodic audits of Respondent Rainbow Properties, Inc.'s trust accounts and who shall provide quarterly reports to the Commissioner at Respondent's expense. No Certified Public Accountant, once approved by the Commissioner, may be changed by the Respondent Rainbow Properties, Inc. without the prior approval of the Commissioner.

7. Respondent shall report in writing to the Department of Real Estate as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued while the restricted license is in effect such information concerning respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest.

Such reports may include, but shall not be limited to, periodic independent accountings of trust funds in the custody and control of respondent and periodic summaries of salient information concerning each real estate transaction in which the respondent engaged during the period covered by the report.

8. Upon full compliance with the terms and conditions set forth herein and upon the expiration of the two year period, Respondent's license shall be fully restored; provided, however, in the event he violates, or fails to comply with, any of the terms and conditions of the restricted license, the Commissioner, after notice to Respondent and an opportunity to be heard, may terminate this order granting a restricted license, or make such other orders modifying or changing the terms and conditions herein, as he deems just and reasonable in his discretion.

* * * * *

Respondent Vincent Cervantes

The Accusation against Respondent Vincent Cervantes is dismissed.

Dated: February 18, 1994

Jaime René Román

JAIME RENÉ ROMÁN
Administrative Law Judge
Office of Administrative Hearings

*not
adopted*

*Sacto
2/16/93*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
RAINBOW PROPERTIES, INC., and)
VINCENT CERVANTES,)
Respondent.)

Case No. H-25332 LA
OAH No. L-59895

DEC 16 1993

DEPARTMENT OF REAL ESTATE
James B. Peel

AMENDED NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 314 West First Street, Los Angeles, California, on **FEBRUARY 4, 1994** at the hour of **1:30 p.m.** or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

Dated: December 16, 1993

DEPARTMENT OF REAL ESTATE

By: *James R. Peel*
JAMES R. PEEL, Counsel

cc: Rainbow Properties, Inc.
Vincent Cervantes
Mark Nialis, Esq.
Sacto.
OAH

Sacto, Jan

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

SEP -9 1993

In the Matter of the Accusation of)
)
RAINBOW PROPERTIES, INC., and)
VINCENT CERVANTES,)
)
Respondents.)

CASE NO. H-25332 LA

OAH NO. L-59895

DEPARTMENT OF REAL ESTATE
BY *Laura B. Orin*

NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 314 West First Street, Los Angeles, California on DECEMBER 21, 1993 at the hour of 9:00 a.m. or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: September 9, 1993

By *James R. Peel*
JAMES R. PEEL, Counsel

cc: Rainbow Properties, Inc.
Vincent Cervantes
Sacto.
OAH

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R/E 501 (1/92)

*Sacto
Joes*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)
RAINBOW PROPERTIES, INC.)
and VINCENT CERVANTES,)
Respondents.)

Case No. H-25332 LA
OAH No. L-59895

JUL -8 1993

DEPARTMENT OF REAL ESTATE
By Laura B. Orona

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 314 West First Street, Los Angeles, California, on September 27, 1993 at the hour of 1:30 p.m. or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

Dated: July 8, 1993

DEPARTMENT OF REAL ESTATE

By: *James R. Peel*
JAMES R. PEEL, Counsel

cc: Rainbow Properties, Inc.
Vincent Cervantes
Sacto.
OAH

RE 501 (Mac 8/92lbo)

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)
RAINBOW PROPERTIES, INC.)
and VINCENT CERVANTES,)

Respondents.)

Case No. H-25332 LA MAY 17 1993
OAH No. L-59895

Saura B. Orona

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 314 West First Street, Los Angeles, California, on August 4, 1993 at the hour of 9:00 a.m. or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

Dated: May 17, 1993

DEPARTMENT OF REAL ESTATE

By:

James R. Peel
JAMES R. PEEL Counsel

cc: Rainbow Properties, Inc.
Vincent Cervantes
Sacto.
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JAMES R. PEEL, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, CA 90012
(213) 897-3937

FILED

MAR 25 1993

DEPARTMENT OF REAL ESTATE
BY Jana B. Orma

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	NO. H-25332 LA
RAINBOW PROPERTIES, INC.)	ACCUSATION
and VINCENT CERVANTES,)	
)	
)	
)	
Respondents.)	

The Complainant, Steven J. Ellis, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against RAINBOW PROPERTIES, INC. and VINCENT CERVANTES, alleges as follows:

I

The Complainant, Steven J. Ellis, a Deputy Real Estate Commissioner of the State of California makes this Accusation in his official capacity.

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II

RAINBOW PROPERTIES, INC and VINCENT CERVANTES as designated officer of said corporation (hereinafter referred to as respondent or respondents) are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code, hereinafter referred to as the "Code").

III

At all times herein mentioned, respondent RAINBOW PROPERTIES, INC. was licensed by the Department of Real Estate of the State of California (hereinafter Department) as a corporate real estate broker, and respondent VINCENT CERVANTES was licensed as the designated broker officer of said corporation.

IV

At all times herein mentioned, respondent RAINBOW PROPERTIES, INC. engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California within the meaning of Section 10131(a) of the Code, including soliciting buyers or sellers for or negotiating sales of real properties on behalf of others for or in expectation of compensation.

V

During 1991 and 1992, in connection with the aforesaid real estate brokerage activities, respondent RAINBOW PROPERTIES, INC. accepted or received funds from buyers and sellers and thereafter made disbursements of such funds. These funds were deposited by respondent in Trust Account No. 001-731041 (T/A 1),

1 Guardian Bank, 800 S. Figueroa, Los Angeles, and Trust Account No.
2 145-6-58733 (T/A 2), First Interstate Bank 6510 Atlantic Avenue,
3 Bell.

4 VI

5 In connection with respondent RAINBOW PROPERTIES INC.'s
6 activities as a real estate broker as described above respondent
7 acted in violation of the Real Estate Law, Business and
8 Professions Code (hereinafter Code), and California Code of
9 Regulations (hereinafter Regulations), Title 10, Chapter 6, as
10 follows:

11 1. Respondent violated Section 10145(a) of the Code by
12 having a combined shortage in the trust accounts of \$127,591.95 as
13 of July 31, 1992.

14 VII

15 The conduct of respondent RAINBOW PROPERTIES, INC. as
16 alleged above, subjects its real estate license and license rights
17 to suspension or revocation pursuant to Sections 10177(d) and
18 10177(g) of the Code.

19 VIII

20 The conduct of respondent CERVANTES, as alleged above,
21 as the responsible individual, by allowing and permitting RAINBOW
22 PROPERTIES, INC. to engage in the conduct specified in Paragraph
23 VI above, subjects his real estate licenses and license rights to
24 suspension or revocation pursuant to Section 10177(h) of the Code.

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WHEREFORE, complainant prays that a hearing be conducted on the allegations of this Accusation and, that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of respondents RAINBOW PROPERTIES, INC. and VINCENT CERVANTES under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California
this 25th day of March, 1993.

STEVEN J. ELLIS

Deputy Real Estate Commissioner

cc: Rainbow Properties, Inc.
Vincent Cervantes
Sacto.
LR

lbo